

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

1. MERRELL LOGISTICS, LLC;)	
2. MERRELL TRANSPORT, LLC;)	
3. SOUTHERN GLAZER'S WINE AND)	
SPIRITS OF OKLAHOMA, LLLP, by)	
and through MERRELLTRANSPORT,)	
LLC,)	
)	
Plaintiffs,)	
vs.)	Case No. 23-cv-00291-GKF-MTS
)	
1. DMFL EXPRESS, INC.; and)	
2. CANOPIUS US INSURANCE, INC.,)	
)	
Defendants.)	

NOTICE OF REMOVAL

Defendant, Canopius US Insurance, Inc. ("Defendant"), hereby removes the action commenced by Plaintiffs, Merrell Logistics, LLC, Merrell Transport, LLC, and Southern Glazer's Wine and Spirits of Oklahoma, LLLP ("Plaintiffs"), from the District Court in and for Tulsa County, Oklahoma, to the United States District Court for the Northern District of Oklahoma.

A civil action was commenced by Plaintiffs on or about April 19, 2023, and service of process upon Defendant Canopius US Insurance was completed on June 15, 2023. (*See* Exhibits 1 and 2).

This matter is now pending in the District Court in and for Tulsa County, Oklahoma, designated as Case No. CJ-2023-01404. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served on Defendant in the state court case are attached hereto as Exhibits 1 and 2. Pursuant to LCvR81-2, copies of all documents filed in the state court case are attached as Exhibits 1, 3, 4, 5, 6 & 7. A copy of the Tulsa County Court Clerk Docket Sheet for the case is attached as Exhibit 8.

1. This Notice of Removal is being filed within thirty days of Defendant's receipt of service of process of the Petition, as permitted by 28 U.S.C. § 1446(B)(3). Defendant hereby reserves any and all rights to assert the insufficiency of process or insufficiency of service of process as defenses to Plaintiffs' Petition.

2. No hearings have been held in the District Court in and for Tulsa County, Oklahoma as of the date of the filing of this removal.

3. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a) in that the parties to this action are citizens of different states and the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.00.

4. There is complete diversity in this case as of the date of this notice.

5. According to the Petition, Plaintiff Merrell Logistics, LLC is a limited liability company, organized under the laws of the State of Oklahoma, with its principal place of business in Tulsa County, Oklahoma. Upon information and belief, Plaintiff Merrell Logistics, LLC is domiciled in Tulsa County, Oklahoma.

6. According to the Petition, Plaintiff Merrell Transport, LLC is a limited liability company, organized under the laws of the State of Oklahoma, with its principal place of business in Tulsa County, Oklahoma. Upon information and belief, Plaintiff Merrell Transport, LLC is domiciled in Tulsa County, Oklahoma.

7. According to the Petition, Plaintiff Southern Glazer's Wine and Spirits of Oklahoma, LLLP is a limited partnership, doing business in Tulsa County, Oklahoma. Upon information and belief, Plaintiff Southern Glazer's Wine and Spirits of Oklahoma, LLLP is organized under the laws of the State of Oklahoma, with its principal place of business in Oklahoma. Upon information and belief, Plaintiff Southern Glazer's Wine and Spirits of

Oklahoma, LLLP is domiciled in Oklahoma.

8. Defendant Canopus US Insurance, Inc., is an insurance company organized under the laws of the State of Delaware with its principal place of business in Delaware, doing business in Tulsa County, Oklahoma.

9. Defendant DMFL Express, Inc., is a motor carrier corporation organized under the laws of the State of Florida with its principal place of business in Florida, doing business in Tulsa County, Oklahoma.

10. Plaintiffs have not completed service of process on Defendant DMFL Express, Inc. (Ex. 7, ¶¶ 4-11). Because DMFL Express, Inc. has not been “properly joined and served,” its consent to remove is not required. 28 U.S.C. § 1446(b)(2)(A).

11. Because Plaintiffs expressly claim they are seeking damages against both Defendants in an amount “in excess of \$75,000.00,” the amount in controversy is satisfied. The amount in controversy requirement is met if, among other things, “it is apparent from the face of the petition that the claims are likely to exceed \$75,000.00.” *Manguno v. Prudential Prop. & Cas. Ins. Co.*, 276 F.3d 720, 723 (5th Cir. 2002). The amount in controversy is satisfied unless “it is ‘legally certain’ that the recovery (from plaintiff’s perspective) or cost of complying with the judgment (from defendant’s) will be less than the jurisdictional floor” *McPhail v. Deere & Co.*, 529 F.2d 947, 955 (10th Cir. 2008) (quoting *Meridian Security Ins. Co. v. Sadowski*, 441 F.3d 536, 543 (7th Cir. 2006)).

12. Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 removal of the above-captioned state court action is appropriate.

13. Promptly after filing this Notice of Removal, Defendant Canopus US Insurance will serve upon the Plaintiffs and file with the Clerk of the District Court in and for Tulsa County,

Oklahoma, as required by law, a “Notice of Filing of Notice of Removal” (without exhibits) in the form attached as Exhibit 9.

14. Venue is proper in this Court pursuant to 28 U.S.C. § 1441(a) in that Tulsa County is within the Northern District of Oklahoma.

15. By removing this action to this Court, Defendant does not waive any defenses, objections, or motions available to it under state or federal law. Defendant expressly reserves the right to move for dismissal of Plaintiff’s claims pursuant to Rule 12 of the Federal Rules of Civil Procedure.

16. If any question arises as to the propriety of this removal, Defendant requests the opportunity to conduct discovery or brief any disputed issues and to present oral argument in support of its position that this civil action is properly removable. *See McPhail v. Deere & Co.*, 529 F.3d 947, 954 (10th Cir. 2008).

WHEREFORE, Defendant Canopus US Insurance, Inc. gives notice that that this action is hereby removed to this Court for further proceedings as though this action had originally been instituted in this Court.

s/Michael T. Maloan

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ATTORNEYS FOR DEFENDANT
CANOPIUS US INSURANCE, INC.

CERTIFICATE OF SERVICE

[X] I hereby certify that on this 14th day of July, 2023, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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s/Michael T. Maloan